

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STEVENS BALDO & LIGHTY, PLLC,

Plaintiff,

Civil Action No.:
2:18-CV-1600-(MKB-JO)

v.

ANTHONY J. DELLUNIVERSITA, PAUL A.
DELLUNIVERSITA, KELLY WALSH, ANTHONY
P. DELLUNIVERSITA, GAIL A.
DELLUNIVERSITA, INDIVIDUALLY AND AS
THE TRUSTEE OF THE GAIL A.
DELLUNIVERSITA LIVING TRUST, PCI COIN
GRADING, INC. PCA COLLECTIBLES, INC. and
C & S CONSULTING AGENCY INC.,

Defendants.
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**ANSWER TO THIRD AMENDED
COMPLAINT**

Defendant, Anthony J. Delluniversita, by and through his attorneys, Palmieri, Castiglione & Associates, P.C., as and for his answer to Plaintiff's Third Amended Complaint, alleges herein as follows:

1. Defendant denies the allegations contained in paragraph "1" Plaintiff's Third Amended Complaint.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph "2" of Plaintiff's Third Amended Complaint.
3. Defendant denies the allegations contained in paragraphs "3" through "6" of Plaintiff's Third Amended Complaint.
4. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph "7" of Plaintiff's Third Amended Complaint.
5. Defendant denies the allegations contained in paragraphs "8" and "9" of Plaintiff's Third Amended Complaint.

6. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “10” of Plaintiff’s Third Amended Complaint.

7. Defendant denies the allegations contained in paragraph “11” of Plaintiff’s Third Amended Complaint, but admits that Anthony J. Delluniversita resides at 56 Easton Avenue, North Babylon, New York 11703.

8. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “12” through “14” of Plaintiff’s Third Amended Complaint.

9. Defendant admits paragraph “15” of Plaintiff’s Third Amended Complaint.

10. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “16” through “18” of Plaintiff’s Third Amended Complaint.

11. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “19” of Plaintiff’s Third Amended Complaint and respectfully refers to the Order and Judgment in the Malvino Action.

12. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “20” through “21” of Plaintiff’s Third Amended Complaint.

13. Defendant denies the allegations contained in paragraph “22” of Plaintiff’s Third Amended Complaint, except admit that Anthony J. Delluniversita resides at 56 Easton Avenue, North Babylon, New York.

14. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “23” and “24” of Plaintiff’s Third Amended Complaint, and respectfully refers all questions of law to the Court.

15. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “24” of Plaintiff’s Third Amended Complaint and respectfully refers all questions of law to the Court.

16. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “25” through “26” of Plaintiff’s Third Amended Complaint.

17. Defendant denies the allegations contained in paragraph “27” of Plaintiff’s Third Amended Complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “28” through “45” of Plaintiff’s Third Amended Complaint.

19. Defendant admits allegations contained in paragraph “46” of Plaintiff’s Third Amended Complaint.

20. Defendant denies the allegations contained in paragraph “47” of Plaintiff’s Third Amended Complaint.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “48” of Plaintiff’s Third Amended Complaint, except admit that Anthony J. Delluniversita was deposed in the Malvino action, and respectfully refers to the transcript from said deposition for the testimony alleged to be contained therein.

22. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “49” of Plaintiff’s Third Amended Complaint.

23. Defendant denies the allegations contained in paragraphs “50” and “51” of Plaintiff’s Third Amended Complaint.

24. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “52” through “55” of Plaintiff’s Third Amended Complaint.

25. Defendant denies the allegations contained in paragraphs “56” and “57” of Plaintiff’s Third Amended Complaint.

26. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “58” of Plaintiff’s Third Amended Complaint.

27. Defendant admits allegations contained in paragraph “59” of Plaintiff’s Third Amended Complaint.

28. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “60” of Plaintiff’s Third Amended Complaint and respectfully refers to Findings of Fact and Conclusions referenced therein for their true meaning and affect.

29. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “61” of Plaintiff’s Third Amended Complaint and respectfully refers to Findings of Fact and Conclusions referenced therein for their true meaning and affect.

30. Defendant denies the allegations contained in paragraph “62” of Plaintiff’s Third Amended Complaint.

31. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “63” of Plaintiff’s Third Amended Complaint, and respectfully refers to the final judgment referenced therein for its true meaning and affect.

32. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “64” of Plaintiff’s Third Amended Complaint and respectfully refers to the Malvino Action docketed in Supreme Court for the State of New York, Suffolk County referenced therein for its true meaning and affect.

33. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “65” of Plaintiff’s Third Amended Complaint.

34. Defendant denies the allegations contained in paragraph “66” of Plaintiff’s Third Amended Complaint.

35. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “67” of Plaintiff’s Third Amended Complaint and respectfully refers to the Order to Show Cause therein for its true meaning and affect.

36. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “68” of Plaintiff’s Third Amended Complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “69” of Plaintiff’s Third Amended Complaint and respectfully refers to the Order referenced therein for its true meaning and affect.

38. Defendant denies the allegations contained in paragraph “70” of Plaintiff’s Third Amended Complaint.

39. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “71” of Plaintiff’s Third Amended Complaint.

40. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “72” of Plaintiff’s Third Amended Complaint and respectfully refers to the Order referenced therein for its true meaning and affect.

41. Defendant denies the allegations contained in paragraphs “73” and “74” of Plaintiff’s Third Amended Complaint.

42. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “75” of Plaintiff’s Third Amended Complaint.

43. Defendant denies the allegations contained in paragraph “76” of Plaintiff’s Third Amended Complaint.

44. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “77” through “79” of Plaintiff’s Third Amended Complaint.

45. Defendant denies the allegations contained in paragraphs “80” through “84” of Plaintiff’s Third Amended Complaint.

46. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “85” and “86” of Plaintiff’s Third Amended Complaint.

47. Defendant admits allegations contained in paragraph “87” of Plaintiff’s Third Amended Complaint.

48. Defendant denies the allegations contained in paragraphs “88” and “89” of Plaintiff’s Third Amended Complaint.

49. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “90” of Plaintiff’s Third Amended Complaint.

50. Defendant denies the allegations contained in paragraphs “91” through “113” of Plaintiff’s Third Amended Complaint.

51. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraphs “114” and “115” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO FIRST CAUSE OF ACTION

52. Defendant answers paragraph “116” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “115” above as if fully set forth herein at length.

53. Defendant denies the allegations contained in paragraphs “117” through “119” of Plaintiff’s Third Amended Complaint.

54. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph “120” of Plaintiff’s Third Amended Complaint.

55. Defendant denies the allegations contained in paragraph “121” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO SECOND CAUSE OF ACTION

56. Defendant answers paragraph “122” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “121” above as if fully set forth herein at length.

57. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “123” of Plaintiff’s Third Amended Complaint.

58. Defendant denies the allegations contained in paragraphs “124” through “127” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO THIRD CAUSE OF ACTION

59. Defendant answers paragraph “128” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “127” above as if fully set forth herein at length.

60. Defendant denies the allegations contained in paragraphs “129” through “132” of Plaintiff’s Third Amended Complaint.

61. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “133” of Plaintiff’s Third Amended Complaint, except admits he has failed to satisfy the judgment.

62. Defendant denies the allegations contained in paragraph “134” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO FOURTH CAUSE OF ACTION

63. Defendant answers paragraph “135” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “134” above as if fully set forth herein at length.

64. Defendant denies the allegations contained in paragraph “136” and “137” of Plaintiff’s Third Amended Complaint.

65. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “138” of Plaintiff’s Third Amended Complaint.

66. Defendant admits allegations contained in paragraph “139” of Plaintiff’s Third Amended Complaint.

67. Defendant denies the allegations contained in paragraph “140” and “141” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO FIFTH CAUSE OF ACTION

68. Defendant answers paragraph “142” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “141” above as if fully set forth herein at length.

69. Defendant denies the allegations contained in paragraphs “143” through “145” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO SIXTH CAUSE OF ACTION

70. Defendant answers paragraph “146” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “145” above as if fully set forth herein at length.

71. Defendant denies the allegations contained in paragraphs “147” through “151” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO SEVENTH CAUSE OF ACTION

72. Defendant answers paragraph “152” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “151” above as if fully set forth herein at length.

73. Defendant denies the allegations contained in paragraphs “153” through “159” of Plaintiff’s Third Amended Complaint.

AS AND FOR AN ANSWER TO EIGHTH CAUSE OF ACTION

74. Defendant answers paragraph “160” of the Complaint by repeating, reiterating, and realleging each and every response to the allegations contained in paragraphs “1” through “159” above as if fully set forth herein at length.

75. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “161” and “162” of Plaintiff’s Third Amended Complaint.

76. Defendant denies the allegations contained in paragraph “163” and “164” of Plaintiff’s Third Amended Complaint.

77. Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph “165” of Plaintiff’s Third Amended Complaint.

78. Defendant denies the allegations contained in paragraph “166” and “167” of Plaintiff’s Third Amended Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Plaintiff’s Third Amended Complaint fails to state a cause of action upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, by res judicata and/or collateral estoppel.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, by its failure to mitigate its damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, by the business judgment rule.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, by its lack of standing.

RESERVATION OF RIGHTS

Defendant reserves its right to supplement and/or amend the foregoing affirmative defenses as additional information becomes available through discovery and/or investigation up to and through the trial of this action.

WHEREFORE, Defendant respectfully request the Court issue an Order dismissing Plaintiff's Complaint in its entirety, with prejudice, and awarding Defendant such other, further, and different relief, as the Court deems just, proper, and/or equitable, including attorneys' fees and the costs and disbursements of this action.

Dated: Mineola, New York
October 14, 2019

PALMIERI, CASTIGLIONE & ASSOCIATES, P.C.

By: /s/ Vito A. Palmieri

Vito A. Palmieri, Esq.

Attorney(s) for Defendant Anthony J. Delluniversita

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